

**CIVIL CASE MANAGEMENT PLAN**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**Xu Chen**

**No. 5:20-CV-0938 FJS/ML**

**VS**

**State Farm Fire and Casualty  
Company, et al.**

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**IT IS HEREBY ORDERED that**, Pursuant to Rule 16(b), Federal Rules of Civil Procedure, a status and scheduling conference will be held in this case before the Honorable MIROSLAV LOVRIC, United States Magistrate Judge on **October 7, 2020, at 1:30 PM** at the U.S. Courthouse, 15 Henry Street, Binghamton, New York.

Counsel for all parties or individuals appearing pro se in the above-captioned action are directed to confer in accordance with Fed. R. Civ. P. 26(f) with respect to all of the agenda items listed below, no later than **twenty-one (21) days** before the scheduled Rule 16 Conference. Following that Rule 26(f) meeting, a report of the results of the conference, in the format set forth below, must be filed with the clerk no later than **seven (7) days** prior to the scheduled Rule 16 conference with the Court. Matters which the Court will discuss at the status conference will include the following: (insert a separate subparagraph as necessary if parties disagree):

**1) JOINDER OF PARTIES:** Any application to join any person as a party to this action shall be made on or before the 31st day of December, 2020.

**2) AMENDMENT OF PLEADINGS:** Any application to amend the pleadings to this action shall be made on or before the 31st day of December, 2020.

**3) DISCOVERY:** All discovery in this action shall be completed on or before the 16th day of June, 2021. **(Discovery time table is to be based on the complexity of the action)**

**4) MOTIONS:** All motions, including discovery motions, shall be made on or before the 2nd day of August, 2021. **(Non-Dispositive motions including discovery motions may only be brought after the parties have complied with Section IX of General Order #25)**

**5) PROPOSED DATE FOR THE COMMENCEMENT OF TRIAL:** The action will be ready to proceed to trial on or before the 30th day of September, 2021. It is anticipated that the trial will take approximately \_\_\_\_\_ days to complete. The parties request that the trial be held in \_\_\_\_\_, N.Y. **(The proposed date for the commencement of trial must be within 18 months of the filing date).**

**6) HAVE THE PARTIES FILED A JURY DEMAND:** X (YES) / \_\_\_\_\_ (NO).

**7) DOES THE COURT HAVE SUBJECT MATTER JURISDICTION? ARE THE PARTIES SUBJECT TO THE COURT'S JURISDICTION? HAVE ALL PARTIES BEEN SERVED?**  
Yes.

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**8) WHAT ARE THE FACTUAL AND LEGAL BASES FOR PLAINTIFF'S CLAIMS AND DEFENDANT'S DEFENSES (INCLUDE COUNTERCLAIMS & CROSSCLAIMS, IF APPLICABLE)?**

Plaintiff's property was damaged by fire. Defendant State Farm denied plaintiff's insurance claim for the loss. Plaintiff contends the denial was wrongful. Defendants Nationstar and Specialized Loan Service, LLC are mortgagees with claims under the subject insurance policy.

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**9) WHAT FACTUAL AND LEGAL ISSUES ARE GENUINELY IN DISPUTE?**

Coverage for the loss and the amount of damages. In particular, issues exist as to whether, among things, (i) the fire was caused by plaintiff or someone under his direction or control (ii) the subject premises was being used as a residence and/or otherwise vacant, and (iii) a sworn proof of loss was properly prepared and/or timely submitted by plaintiff.

**10) CAN THE ISSUES IN LITIGATION BE NARROWED BY AGREEMENT OR BY MOTIONS? ARE THERE DISPOSITIVE OR PARTIALLY DISPOSITIVE ISSUES APPROPRIATE FOR DECISION ON MOTION?**

Unknown at this time.

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**11) WHAT SPECIFIC RELIEF DO THE PARTIES SEEK? WHAT ARE THE DAMAGES SOUGHT?**

Damages. Plaintiff seeks at least \$207,974.57, exclusive of costs and interests.

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**12) DISCOVERY PLAN:**

**A. Mandatory Disclosures**

The parties will exchange the mandatory disclosures required under Rule 26(a)(1) at least **seven (7) days** prior to the date of the Rule 16 conference, unless they have obtained prior approval from the assigned Magistrate Judge to extend that deadline.

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**B. Subjects of Disclosure**

The parties jointly agree that discovery will be needed to address the following subjects:

Coverage

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Damages

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Mortgagee interests in property

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**C. Discovery Sequence**

Describe the parties' understanding regarding the timing of the discovery, and state whether it is anticipated that discovery will be phased to address different issues in stages. The parties do not anticipate requiring staged discovery.

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**D. Written Discovery**

Describe the written discovery demands which the parties contemplate serving under Rules 33, 34 and 36, including when they will be promulgated, the areas to be covered, and whether there is any need for any party to exceed the number of interrogatories permitted under Rule 33.

The parties anticipate discovery under Rules 33 and 34 and potentially 36. The parties do not anticipate a need for any party to exceed the number of interrogatories under Rule 33.

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**E. Depositions**

Set forth the parties' expectations regarding depositions, including the approximate number to be taken, their location, a general description of the deponents, and an indication of whether any non-party fact depositions are anticipated.

4-6 depositions.

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**F. Experts**

Set forth the parties' expectations regarding the retention of experts, and identify any particular issues to be addressed by the court concerning the retention and exchange of the information regarding experts, including whether the parties seek a variance from the expert disclosure requirements of the form uniform pretrial scheduling order typically issued by the court (i.e., initial expert disclosure at least ninety days, responsive expert disclosures at least forty-five days, and rebuttal reports due at least thirty days, before the close of discovery).

The parties anticipate expert testimony and do not anticipate requiring a variance from

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the uniform order.

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**G. Electronic Discovery**

Set forth the parties' understanding and expectations regarding discovery of electronically stored information. This description should include any agreements reached with respect to the retention of electronically stored information and the manner in which it will be produced, if requested. The parties should also identify any agreements regarding the manner in which electronically stored information subject to claims of privilege or work product protection will be handled, and whether a court order will be requested, either on stipulation or otherwise, to address this issue. If an agreement has been reached on the entry of such an order, provide a brief description of the provisions which will be included in a proposed order.

The parties anticipate some discovery of electronically stored information, such as emails and text messages, but do not anticipate the necessity of an ESI order.

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N/A

None at this time.

**HOW CAN SETTLEMENT EFFORTS BE ASSISTED?**

*(Do not indicate any monetary amounts at this time, settlement will be explored by the Magistrate Judge at the time of the initial status conference)*

**COMPLETE QUESTION 17 ONLY IF YOUR FILING ORDER COVER SHEET WAS CHECKED AS AN ADR TRACK CASE - Subject to Mandatory Mediation under General Order #47.**

**17) IF YOUR CASE WAS SELECTED AS A QUALIFYING MANDATORY MEDIATION CASE, CONFIRM THAT YOU HAVE:**

- A. Reviewed General Order #47? YES / NO
- B. Reviewed the List of Court Approved Mediators available on the NDNY website? YES / NO
- C. Prepared to discuss with the Court, at the conference, whether your case should be opted out of the program? YES / NO
- D. Discussed the time frame needed to complete Mandatory Mediation? YES / NO

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Pursuant to Fed. R. Civ. P. 26(f) a meeting was held on 10/2/2020 at via telephone and was attended by: (Date) (Place)

Kelsey W. Shannon for plaintiff(s)

Charles Jeanfreau for defendant(s) Nationstar Mortgage, LLC

(party name)

James Lagios for defendant(s) State Farm Fire and Casualty Company

and: Clayton Vignocchi for defendant(s) Specialized Loan Service, LLC (party name)

At the Rule 16(b) conference, the Court will issue an order directing the future proceedings in this action. The parties are advised that failure to comply with this order may result in the imposition of sanctions pursuant to Federal Rules of Civil Procedure 16(f).

***Please detach this case management plan form and file electronically with the clerk no later than seven (7) days in advance of the conference date.***